



United States  
Department of  
Agriculture

Forest  
Service

Green Mountain & Finger Lakes  
National Forests  
Supervisor's Office

[www.fs.fed.us/r9/gmfl](http://www.fs.fed.us/r9/gmfl)

231 North Main St.  
Rutland, Vermont 05701  
Tel. (802) 747-6700  
TTY (802) 747-6765  
FAX (802) 747-6766

File Code: 2710

Date: April 15, 2004

John Zimmerman  
Deerfield Wind LLC  
1209 Harvey Farm Road  
Waterbury Center, VT 05677

Dear John,

I am writing in response to your proposal to expand the existing "Searsburg Windfarm" in the towns of Searsburg and Readsboro. I have reviewed the initial screening criteria as required (36 CFR 251.54(e)(1)(i)-(ix)), and have determined that all nine initial screening criteria have been met. Therefore, the next step will be to examine the second level criteria (36 CFR 251.54 (e)(5)(i)-(v)).

In regards to the initial criteria, I find that:

1. The proposed use is consistent with the laws, regulations, orders, and policies establishing or governing National Forest System (NFS) lands, with other applicable Federal laws, and with applicable State and local health and sanitation laws.

The Multiple Use Sustained Yield Act of 1960 directs the Secretary of Agriculture to "develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom." 16 U.S.C. §529. Furthermore, Congress has also declared that public land management "be on the basis of multiple use and sustained yield." 43 U.S.C. §1701(a)(6). *See also* 36 C.F.R. § 219.1 & 219.3. This multiple use directive was communicated by the President to Congress to mean that "the Nation's forested land . . . should be managed at levels that realize its capabilities to satisfy the Nation's need for food, fiber, *energy*, water, soil stability, wildlife and fish, recreation, and esthetic values." [Emphasis added]. The Statement of Policy transmitted by the President to the Speaker of the House of Representatives and the President of the Senate on June 19, 1980 pursuant to Statement of policy. Act Dec. 12, 1980, P.L. 96-514.

Your proposal is consistent with our recently developed national policy on actions to expedite energy-related projects as expressed in Executive Order 13212, signed by President Bush on May 18, 2001, which states that "increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people. In general, it is the policy of this Administration that executive departments and agencies (agencies) shall take appropriate actions, to the



extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy.”

I recognize that the existing facility is on private land, and that opportunities for development of wind energy facilities also exist on other private land parcels in the State of Vermont. I am also aware that the NFS lands you are looking to expand onto are some of the most suitable lands in Vermont for wind energy development. The Administration envisions that the use and occupancy of Federal lands can help meet the nation's energy goals and objectives. I believe that this proposed use of NFS lands is appropriate for consideration.

2. The proposed use is consistent or can be made consistent with standards and guidelines in the applicable forest land and resource management plan prepared under the NFMA and 36 CFR part 219.

Your proposal is consistent with the development, level of disturbance, and actions expected and allowable in Management Area (MA) 3.1 as described in the Green Mountain National Forest Land and Resource Management Plan (Forest Plan), and complies with all relevant statutes and regulations that apply, including 36 C.F.R. part 219. MA 3.1 lands can be described as a “roaded, intensively managed” landscape. Utility lines are allowed, either above or below ground (Forest Plan p. 4.105 I.1), and structures necessary for management are also allowed (Forest Plan p. 4.105 J.1).

One issue that we are still exploring in relation to the proposed use is the application of visual quality standards. Given that the level of development is consistent with MA 3.1 direction, we will take the necessary hard look at visual quality environmental effects.

Forest Plan Appendix G does discuss siting visually prominent facilities including wind turbines. The Forest Plan Draft Environmental Impact Statement (DEIS), on page 3.09, discusses potential for “water and wind power sites”, and states that several sites have good potential for wind energy development. Your proposal is consistent with this concept. A legally sufficient review of the proposed use will need to be conducted according to the National Environmental Policy Act (NEPA), to further determine compatibility with resources and land uses, such as recreation as noted on DEIS page 3.09, and to address issues such as visual quality, wildlife habitat, wildland values, and others. This NEPA analysis will be the preparation of an Environmental Impact Statement (EIS).

3. The proposed use will not pose any serious or substantial risk to public health or safety.

Public access may need to be limited and controlled under management similar to that of the existing facility. Measures may be necessary to minimize ice from being thrown off the blades. There are no known hiking trails, motorized trails, or recreational sites in the near vicinity, nor is there any extraordinary amount of public use of the area. Other

potential safety issues may arise during the NEPA analysis and will be addressed at that time.

4. The proposed use will not create an exclusive or perpetual right of use or occupancy.

This proposal to obtain a special use authorization, in and of itself, does not grant any right or privilege to use NFS lands. The specific type of special use authorization will be determined shortly. Any rights or privileges to occupy and use NFS lands will be conveyed only through issuance of a special use authorization.

5. The proposed use will not unreasonably conflict or interfere with administrative uses by the Forest Service, other scheduled or authorized existing uses of the National Forest System, or use of adjacent to non-National Forest System lands.

There are no known scheduled or authorized existing uses on or nearby that would be interfered with by this proposed use; in fact, your proposed use is to expand an existing private land-based site. That expansion is proposed on undeveloped, forested lands. Certain Forest Services administrative uses will be necessary in order to administer any special use authorization that may be granted.

Should your permit application be accepted, a detailed environmental analysis will be completed that will examine land use issues in the area and determine how best to address them. This may lead to certain conditions, limitations, or mitigations that may be incorporated into the authorization.

6. The proponent does not have any delinquent debt owed to the Forest Service under terms and conditions of a prior or existing authorization, unless such debt results from a decision on an administrative appeal or from a fee review and the proponent is current with the payment schedule.

The project proponent does not have an outstanding debt to the Forest Service.

7. The proposed use does not involve gambling or providing of sexually oriented commercial services, even if permitted under State law.
8. The proposed use does not involve military or paramilitary training or exercises.
9. The proposed use does not involve the disposal of solid waste or disposal of radioactive or other hazardous substances.

Again, all nine initial screening criteria above can be met for the proposed use. The next step in the process will be to examine the following second-level screening criteria. These five criteria (36 CFR 251.54 (e)(5)(i)-(v)), and the paragraphs below on providing guidance and information, are taken directly from the Code of Federal Regulations. The Forest Service Special Uses

Handbook, Chapter 10, Sections 10-17 discuss the screening process and its criteria in more easy to read detail and you may find that helpful in addressing the criteria.

Accordingly, the proposal may be rejected if, upon further consideration, it is determined that:

1. The proposed use would be inconsistent or incompatible with the purposes for which the lands are managed, or with other uses, or
2. The proposed use would not be in the public interest, or
3. The proponent is not qualified, or
4. The proponent does not or cannot demonstrate technical or economic feasibility of the proposed use or the financial or technical capability to undertake the use and to fully comply with the terms and conditions of the authorizations, or
5. There is no person or entity authorized to sign a special use authorization and/or there is no person or entity willing to accept responsibility for adherence to the terms and conditions of the authorizations.

Please address the above five second-level screening criteria in writing. The following guidance and information (36 CFR 251.54 (e)(3)) may help in the preparation of your response:

1. Possible land use conflicts as identified by review of the Forest Plan, landownership records, and other sources:

Current Forest Plan direction allows the proposed use. I would encourage you to remain an active participant in our Forest plan revision process. No other landownership issues exist to my knowledge.

When responding to criteria 1. above, please explain how you selected the location of the proposed use, why use of NFS lands is necessary, and why you feel other ownerships cannot effectively be used.

2. Proposal and application procedures and probable time requirements:

The next step is the evaluation of the second-level screening criteria. If successfully met, then a formal application may be submitted. Upon acceptance, the application will be subject to NEPA analysis. This will consist of the preparation of an environmental impact statement (EIS). The analysis and preparation of the environmental documentation will be conducted by a third party contractor hired and paid for by the proponent. The Forest Service must approve the selection of the contractor. Funding of project coordinator and Forest Service specialists to review the environmental documents will be the responsibility of the proponent. This will be facilitated through a mutually agreed upon collection agreement. It is expected that the EIS process will take between 1 1/2 to 2 years, and possibly longer depending on the extent of issues and any studies necessary to fully evaluate the environmental impacts under NEPA. Once completed, the decision on the

special use authorization will be documented in a Record of Decision. Finally, depending upon the decision, an appropriate special use authorization will be issued.

An estimate of the amount needed to fund Forest Service employees will be forthcoming shortly.

3. Proponent qualifications:

For this, you will need to explain why you feel you are qualified, both technically and financially, to propose this use and your capabilities to see the project through to completion and carry on with its implementation. We will shortly provide you with a list of information that we will need to fully evaluate your financial capabilities.

4. Applicable fees, charges, bonding, and/or security requirements:

We do not anticipate any fees or charges associated with processing the application other than those described above. A special use fee will be determined if and when the authorization is issued. At this time, current Forest Service direction is to use the Bureau of Land Management (BLM) fee schedule. Some information on this may be found at [http://www.fs.fed.us/recreation/permits/documents/wind-energy-policy-final%20\(im-2003-020\).doc](http://www.fs.fed.us/recreation/permits/documents/wind-energy-policy-final%20(im-2003-020).doc).

Another site that contains a wealth of information on special uses is <http://www.fs.fed.us/recreation/permits/>. Click on "Energy" in the left column.

5. Necessary associated clearances, permits, and licenses:

We expect that you will need to obtain a State of Vermont Section 248 permit in order to comply with State of Vermont Public Services Department regulations. Further guidance on the applicability of this in regards to a proposal on Federal lands is being determined at this time. The costs of any State permits will be the burden of the proponent. The need for any additional federal permits (i.e. wetlands, Corp of Engineers, and so on) will be determined during the NEPA analysis.

6. Environmental and management considerations:

As previously discussed, as a minimum, the special use authorization will be subject to an environmental review (EIS).

7. Special conditions:

As you are aware, we are in contact with Forest Service legal counsel in regards to the Court injunction in place in part of the area in which you are proposing to expand use. We will notify you of the results of their advice.

8. Identification of on-the-ground investigations, which will require temporary use permits:  
None expected.

Please let me know if any additional information, other than that noted above, is needed in order for you to complete your response to the second-level screening criteria. If you have any questions, feel free to contact either District Ranger Gina Owens (362-2307 ext. 212) or Bob Bayer (362-2307 ext 218), both in our Manchester Office.

Sincerely,

A handwritten signature in cursive script that reads "Paul K. Brewster". The signature is written in black ink and is positioned above the printed name.

PAUL K. BREWSTER  
Forest Supervisor

cc: Gina Owens, Robert Bayer, Carolyn Williams